

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

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January 27, 2000

The Honorable Tom Bliley  
Chairman  
Committee on Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Bliley:

Thank you for the opportunity for the U.S. Chamber of Commerce (the "Chamber") to provide comments to the Committee on Commerce on the Electricity Competition and Reliability Act (H.R. 2944).

The Chamber commends the work of the Energy and Power Subcommittee in approving H.R. 2944 and is anticipating the upcoming challenge for the Full Committee in considering this legislation. The Chamber believes that H.R. 2944 is a positive first step towards finding the appropriate federal response to on-going state action.

In efforts to reach such a consensus and to carefully consider an appropriate response to electricity restructuring activities, the Chamber's Committee on Environment and Energy formed the Task Force on Electricity Restructuring (the "Task Force"). The Task Force submitted a policy to the Chamber's Board of Directors in June of 1999 that voted unanimously in favor of the policy on electric industry restructuring. Enclosed for your review is the Chamber's policy.

The Honorable Tom Bliley  
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As you will note, the Chamber's policy calls for electricity deregulation as quickly as possible. The Chamber recognizes that the states have taken the lead on deregulation of the electric industry. Moreover, the Chamber appreciates that Congress has a substantial and key role both in keeping the avenues of commerce open and in leveling the playing field by repealing certain federal laws, which were enacted at a time when utilities were being formed as state sanctioned monopolies. Our policy sets forth numerous challenges that Congress must address in order to expedite the deregulation of the electric industry. We ask that you consider these policy principles in your consideration of H.R. 2944 or other legislative proposals that you intend to introduce.

The Task Force will meet on January 31 to examine H.R. 2944 in light of our recently adopted policy. We will be able to give you further comments on the bill after the Task Force has completed its work. In the interim, we hope that our policy statement helps in your consideration of this issue. The Chamber believes that this policy represents a true compromise between stakeholders.

The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses of every size, sector, and region, applauds your efforts to enact comprehensive legislation on electricity deregulation. We look forward to working with you to achieve full and open competition in the electricity market.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten", written in a cursive style.

R. Bruce Josten

Enclosure

## **ELECTRICITY RESTRUCTURING**

### **Policy Declaration**

#### **COMPETITION**

Competition in electric power generation and supply will assure consumers an adequate supply of power at market prices. Government regulation cannot substitute for the discipline of the free market. The Chamber strongly believes that competition is in the public interest.

There are many regional electricity markets in the United States. The various states are thus best suited to determine how to consider retail competition within their respective territory. They should do so as expeditiously as possible.

There is no "one size fits all" formula that the federal government should impose on the states. Attempting to develop such a formula at the federal level would only perpetuate inefficiencies. The role of the federal government within this system is to regulate the transmission of power in interstate commerce and to remove impediments to true competition.

#### **FERC AUTHORITY**

The Chamber does not support proposals that expand the regulatory powers of federal agencies. Specifically, it does not support proposals that expand the authority of the Federal Energy Regulatory Commission (FERC) to regulate the generation, distribution and sale of electricity.

Notwithstanding the Chamber's opposition to expanding the regulatory authority of FERC, it does recognize the constitutional role of the federal government in keeping open all aspects of interstate commerce. As to the free flow of electricity, the Chamber recognizes that FERC is charged with ensuring open access for the transmission of electricity in interstate commerce. Since the Chamber supports open access to all transmission lines, the Chamber supports extending Order No. 888, FERC's nondiscriminatory wholesale open access transmission authority, to currently non-jurisdictional transmission-owning entities.

**REGIONAL TRANSMISSION ORGANIZATIONS**

Regional Transmission Organizations should be voluntary, independent, sized appropriately to the market they serve, and have a clearly defined operational authority.

**RELIABILITY**

The North American Electric Reliability Council (NERC) or the proposed North American Electric Reliability Organization (NERO) should be given authority to establish and enforce reliability standards.

As the electric industry is restructured, FERC's authority should remain primarily in the economic area of approving transmission tariffs and requiring open non-discriminatory access.

**ENVIRONMENT**

The issue of electricity restructuring is extremely complex and should be considered as an independent legislative proposal. Therefore, federal legislation that addresses the restructuring of the electric industry should not impose any new and burdensome environmental provisions. Appropriate environmental legislation should be considered on its own merit and should operate independently of the restructuring of the electricity marketplace.

**NUCLEAR DECOMMISSIONING**

It is essential that nuclear decommissioning, decontamination and spent nuclear fuel management activities required by the federal government to protect the public health and safety not be jeopardized by electricity industry restructuring. Funds to implement these activities are currently covered through cost of service regulation and this cost recovery must be assured. Additionally, Congress should act expeditiously to amend current law regarding the tax treatment of nuclear decommissioning trust funds.

**PUBLIC UTILITY HOLDING COMPANY ACT (PUHCA)**

Congress should repeal the PUHCA. There already exists sufficient federal and state authority to protect consumers from anti-competitive and monopolistic practices.

**PUBLIC UTILITY REGULATORY POLICIES ACT (PURPA) REPEAL**

Comprehensive legislation to restructure the electric industry should include the prospective repeal of Section 210 of the PURPA, the preservation of existing contracts, and the recovery of costs associated with purchases under such contracts.

**RETAIL STRANDED COSTS**

The Chamber believes that the States should continue to determine the recovery of retail stranded costs if produced by State actions. To the extent that the federal government enacts legislation that also results in stranded costs, Congress should provide a recovery mechanism.

The Chamber supports the recovery of all prudent, verifiable and non-mitigatable net stranded costs.

**RECIPROCITY**

Since states may lack the authority to block interstate movement of products and services under existing law, Congress should grant states the authority to require reciprocity as a condition of access to one another's electric markets.

**CUSTOMER CLASSES**

All customer classes (residential, commercial and industrial) should have simultaneous access to retail competition. No customer class should be given preferential treatment in the market.

**PUBLIC POWER (PUBLIC POWER MARKETING ADMINISTRATIONS, TVA, MUNICIPALITIES AND RURAL ELECTRIC COOPERATIVES)**

Public power entities, that sell or transmit power outside of their existing service areas, should not be able to use benefits available to them as a government supported organization. The Chamber supports proposals that seek to level the playing field and require public power to compete fairly with the private sector.

**SMALL BUSINESS PROTECTIONS AND AFFILIATE TRANSACTIONS**

As a part of restructuring, investor-owned utilities or public power entities should not be allowed to grant their affiliates any undue preferences or advantages or otherwise subsidize their operations. The Chamber supports efforts of the respective state commissions to prohibit affiliate transactions involving cost shifting, cross subsidization, or discriminatory self-dealing that enables unfair competition.